

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20989

Application 26739 of Pacific Gas and Electric Company
245 Market Street, Room 1103, San Francisco, CA 94105

filed on **March 3, 1981**, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
North Fork Mokelumne River	Mokelumne River

2. Location of point of diversion

	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Point of Diversion</u> North 69° 55' East, 2,098 feet from S¼ corner of Section 23	SE¼ of SE¼	23	7N	13E	MD
<u>Point of Rediversion – North Fork Mokelumne River</u> South 0° 24' East, 1,414 feet from N¼ corner of Section 33	SW¼ of NE¼	33	7N	13E	MD

County of Amador

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Hydroelectric Power Generation	West Point Powerhouse SW ¼ of NE ¼	33	7N	13E	MD	
	Electra Powerhouse SW ¼ of NW ¼	33	6N	12E	MD	

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 300 cubic feet per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 216, 810 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2003. (0000008)
8. Complete application of the water to the authorized use shall be made by December 1, 2007. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include

but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
13. This permit shall not be construed as conferring upon permittee right of access to the point of diversion. (0000022)
14. The equivalent of the authorized continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there is no interference with other rights. (0000027)
15. Permittee shall, prior to construction, file a Report of Waste Discharge pursuant to Water Code Section 13260 with the California Regional Water Quality Control Board, Central Valley Region (Regional Board), and shall comply with all Waste Discharge requirements issued by the Regional Board. If the Regional Board waives issuance of Waste Discharge Requirements, permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality During Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

Specific requirements set forth in this permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict.

When complying with the Guidelines, pursuant to this condition, permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan (0000102)

16. Water diverted under this permit is for nonconsumptive use and is to be released to Mokelumne River within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 33, T6N, R12E, MDB&M. (0000111)
17. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained.
18. This permit is specifically subject to any water right permits or licenses issued pursuant to State-filed Applications 5647 or 5648 for use within the watershed of the Mokelumne River System. (000T001)
19. Permittee shall forward to the State Water Resources Control Board all pertinent Federal Energy Regulatory Commission filings which may impact the water rights associated with this project (Application 26739). (0450300)
20. The State Water Resources Control Board reserves jurisdiction to reexamine fishery and public trust uses as they relate to this permit and to modify the terms of this permit accordingly if the law governing the respective legal authority of the Board and the Federal Energy Regulatory Commission is changed. No action will be taken pursuant to this permit term unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; consistent with the public trust; and is necessary to preserve or restore uses protected by the public trust. (0400600)
21. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future under the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the federal Endangered Species Act for the project authorized under this permit. (0000014)
22. In order to protect prior vested water rights, the permittee or licensee shall divert water pursuant to Applications 26736 and 26739 to operate the Mokelumne River Hydroelectric Power Project within the limits set by the following judgments and decrees:
 1. City of Lodi, plaintiff, vs. East Bay Municipal Utility District, et al., defendants. Judgment and decree No. 22415 of the Superior Court of San Joaquin County, dated March 14, 1938.
 2. East Bay Municipal Utility District, plaintiff, vs. Pacific Gas and Electric Company, defendant. Judgment and decree No. 1950 of the Superior Court of Calaveras County, dated July 25, 1940.

3. City of Lodi, plaintiff, vs. East Bay Municipal Utility District, et al., defendants. Order modifying judgment and decree No. 22415, dated October 4, 1950.

(0160400)

23. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany this application, permittee shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23, and shall be furnished upon request of the Chief, Division of Water Rights.

(0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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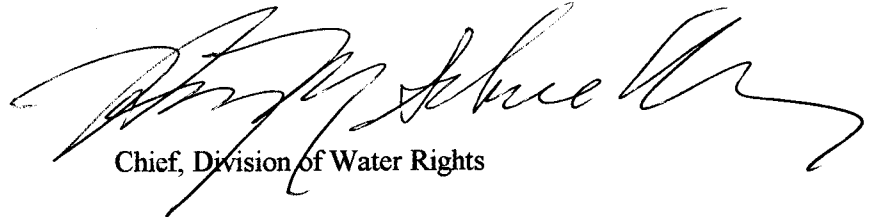
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 5, 1999

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights